

MORGAN, LEWIS & BOCKIUS LLP
Nicole A. Diller (State Bar No. 154842)
Donald P. Sullivan (State Bar No. 191080)
One Market, Spear Street Tower
San Francisco, California 94105
Telephone: (415) 442-1000
Facsimile: (415) 442-1001

Attorneys for North Star Trust Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, LORA SMITH,
and TOSHA THOMAS

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;
K-M INDUSTRIES HOLDING CO., INC.
ESOP PLAN COMMITTEE; WILLIAM
E. AND DESIREE B. MOORE
REVOCABLE TRUST; TRUSTEES OF
THE WILLIAM E. AND DESIREE B.
MOORE REVOCABLE TRUST; CIG
ESOP PLAN COMMITTEE; NORTH
STAR TRUST COMPANY; DESIREE B.
MOORE REVOCABLE TRUST;
WILLIAM E. MOORE MARITAL
TRUST; WILLIAM E. MOORE
GENERATION-SKIPPING TRUST; and
DESIREE MOORE, BOTH IN HER
INDIVIDUAL CAPACITY AND AS
TRUSTEE OF THE WILLIAM E AND
DESIREE B. MOORE REVOCABLE
TRUST'S SUCCESSOR TRUSTS
NAMED ABOVE,

Defendants.

Case No. C06-07339 CW

**STIPULATION AND ORDER
MODIFYING HEARING DATE ON
MOTIONS FOR JUDGMENT ON THE
PLEADINGS**

WHEREAS, Defendant North Star Trust Company (“NSTC”) filed a motion for judgment on the pleadings on February 5, 2009;

WHEREAS, Plaintiffs Thomas Fernandez, Lora Smith, and Tosha Thomas (“Plaintiffs”) and the Settling Defendants¹ filed a cross-motion for judgment on the pleadings on May 21, 2009;

WHEREAS, both motions are fully briefed and are currently scheduled to be heard on Thursday, June 18, 2009 at 2:00 p.m.;

WHEREAS, NSTC and Plaintiffs have entered into preliminary settlement discussions;

WHEREAS, NSTC and Plaintiffs wish to engage in mediation prior to the Court holding the hearing on the pending cross-motions for judgment on the pleadings;

WHEREAS, the Settling Defendants do not object to a short deferment of the hearing on the cross-motions;

WHEREFORE, IT IS HEREBY STIPULATED by and between the parties, through their respective counsel of record and pursuant to Local Rule 6-1(b), that the hearing on the parties’ cross-motions for judgment on the pleadings shall be rescheduled from June 18, 2009 at 2:00 p.m. to August 6, 2009 at 2:00 p.m. or as soon thereafter as the matter may be heard by the Court.

IT IS SO STIPULATED:

DATED: June 16, 2008

LEWIS, FEINBERG, LEE, RENAKER &
JACKSON, P.C.

By: /S/ Daniel M. Feinberg
Daniel M. Feinberg
Todd Jackson
Attorneys for Plaintiffs Thomas Fernandez,
Lora Smith, and Tosha Thomas

¹ As used in this stipulation, the term the “Settling Defendants” refers to K-M Industries Holding Co., Inc.; K-M Industries Holding Co., Inc. ESOP Plan Committee; William E. and Desiree B. Moore Revocable Trust; Trustees of the William E. and Desiree B. Moore Revocable Trust; CIG ESOP Plan Committee; Desiree B. Moore Revocable Trust; William E. Moore Marital Trust; William E. Moore Generation-Skipping Trust; and Desiree Moore, both in her Individual Capacity and as Trustee of the William E. and Desiree B. Moore Revocable Trust’s Successor Trusts.

1 DATED: June 16, 2008

MORGAN, LEWIS & BOCKIUS LLP

2 By: /S/ Nicole A. Diller
3 Nicole A. Diller
4 Donald P. Sullivan
Attorneys for Defendant North Star Trust
Company

5
6 DATED: June 16, 2008

LOVITT & HANNAN, INC.

7 By: /S/ Henry Bornstein
8 Henry Bornstein
9 Ronald Lovitt
Attorneys for Defendants K-M Industries
Holding Co., Inc.; K-M Industries Holding
10 Co., Inc. ESOP Plan Committee; and CIG
ESOP Plan Committee

11
12 DATED: June 16, 2008

HENNIGAN, BENNETT & DORMAN LLP

13 By: /S/ Robert L. Palmer
14 Robert L. Palmer
15 Lauren Smith
16 Allison Chock
Attorneys for Defendants William E. and
Desiree B. Moore Revocable Trust; Trustee
of the William E. and Desiree B. Moore
Revocable Trust; Desiree B. Moore
17 Revocable Trust; William E. Moore Marital
18 Trust; William E. Moore Generation-
Skipping Trust; and Desiree Moore

19
20 **ATTESTATION**

21 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
22 “conformed” signature (/S/) within this efiled document.

23 DATED: June 16, 2008

MORGAN, LEWIS & BOCKIUS LLP

24 By: /S/ Nicole A. Diller
25 Nicole A. Diller
26 Attorneys for Defendant North Star Trust
Company

ORDER

For good cause shown, it is hereby ordered that:

The hearing on the parties' cross-motions for judgment on the pleadings, currently scheduled for June 18, 2009 at 2:00 p.m., shall be rescheduled to **August 6, 2009 at 2:00 p.m.**

IT IS SO ORDERED.

6/17/09



DATED: _____

The Honorable Claudia Wilken
United States District Judge

DB2/21155108.1